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Attorneys for Defendant Merck & Co., Inc.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

HOWARD MATHEWS and EVELYN  
MATHEWS,

Plaintiffs,

vs.

MERCK & CO., INC.; and DOES 1 To  
10,

Defendants.

No. 4:05-CV-01947-SBA MHP

**STIPULATION AND [PROPOSED] ORDER  
STAYING PROCEEDINGS PENDING  
TRANSFER TO *IN RE VIOXX PRODUCTS  
LIABILITY LITIGATION*, MDL NO. 1657**

1 The parties, by and through their counsel, stipulate to and respectfully request a stay of all  
2 proceedings in this action pending the transfer of this case to *In re VIOXX Products Liability*  
3 *Litigation*, MDL No. 1657.

4  
5 Plaintiffs allege personal injuries and loss of consortium attributed to the prescription drug  
6 VIOXX®. Defendant Merck & Co., Inc. ("Merck") manufactured and distributed VIOXX®, but  
7 voluntarily withdrew VIOXX® from the market on September 30, 2004.

8  
9 On February 16, 2005, the Judicial Panel on Multidistrict Litigation ("JPML") issued an  
10 order transferring 148 VIOXX®-related cases to the United States District Court for the Eastern  
11 District of Louisiana for coordinated pretrial proceedings under 28 U.S.C. § 1407. Merck intends to  
12 seek the transfer of this action to that Multidistrict Litigation, *In re VIOXX Products Liability*  
13 *Litigation*, MDL No. 1657, and will provide the JPML with notice of this action pursuant to the  
14 procedure for "tag along" actions set forth in the rules of the JPML. A stay will potentially conserve  
15 judicial resources and will not cause unfair prejudice to the parties. *See Rivers v. Walt Disney Co.*,  
16 980 F. Supp. 1358, 1360 (C.D. Cal. 1997) (stay pending MDL transfer decision action would further  
17 judicial economy because "any efforts on behalf of this Court concerning case management will  
18 most likely have to be replicated by the judge that is assigned to handle the consolidated litigation").

19  
20 Based on the foregoing, the parties respectfully request that the Court stay this action  
21 pending its transfer to MDL No. 1657.

1 DATED: May 13, 2005.

2 REED SMITH LLP

3 By R. Euna Kim

4 R. Euna Kim  
5 Attorneys for Defendant  
6 Merok & Co., Inc.

7 DATED: May 16, 2005.

8 FURTADO JASPOVICE & SIMMONS

9 By Richard J. Simmons

10 Richard J. Simmons  
11 Attorneys for Plaintiffs

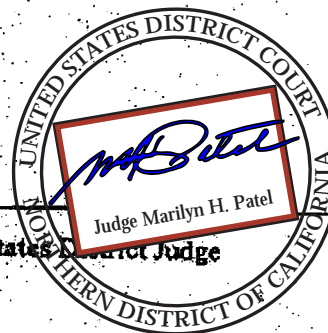
12 Howard Mathews & Evelyn Mathews

13 ORDER

14 Having considered the foregoing stipulation and good cause appearing therefore, IT IS SO  
15 ORDERED.

16 DATED: June 27, 2005

17 United States District Judge



## PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. I am employed in the office of a member of the bar of this court at whose direction the service was made. My business address is REED SMITH LLP, Two Embarcadero Center, Suite 2000, San Francisco, CA 94111. On May 17, 2005 I served the following document(s):

**STIPULATION AND [PROPOSED] ORDER STAYING PROCEEDINGS  
PENDING TRANSFER TO *IN RE VIOXX PRODUCTS LIABILITY*  
LITIGATION, MDL NO. 1657**

- ☐ by transmitting via facsimile on this date from fax number 415.391-8269 the document(s) listed above to the fax number(s) set forth below. The transmission was completed before 5:00 p.m. and was reported complete and without error. The transmission report was properly issued by the transmitting fax machine.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this Declaration.
- ☐ by placing the document(s) listed above in a sealed envelope(s) and by causing personal delivery of the envelope(s) to the person(s) at the address(es) set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by placing the document(s) listed above in a sealed envelope(s) and consigning it to an express mail service for guaranteed delivery on the next business day following the date of consignment to the address(es) set forth below. [Via United Parcel Service]

By method indicated above upon:

**Richard J. Simons  
Furtado Jaspovice & Simons  
22274 Main Street  
Hayward, CA 94541**

I declare under penalty of perjury under the laws of the United States that the above is true and correct. Executed on May 17, 2005, at San Francisco, California.

  
Clarise Wilkins